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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,210	03/26/2001	William Gilmore Costin IV	57428.000003	1618

7590

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EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/816,210

Applicant(s)

COSTIN ET AL.

Examiner

Tan Dean D. Nguyen

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for the claimed invention to be statutory subject matter, the claimed invention must fall within one of the statutory classes of invention as set forth in § 101 (i.e. a process, machine, manufacture, or composition of matter).

In the present case, claims 1-5 are directed to "A method for enabling a business entity to raise funds and awareness over a distributed network", which is not within one of the classes of invention set forth in § 101.

The "A method for enabling a business entity to raise funds and awareness over a distributed network" comprising the steps of (a) enabling ....; (c) providing interactive ... entity, as shown are merely an abstract idea and do not produce a useful, tangible, concrete results.

The "A method for enabling a business entity to raise funds and awareness over a distributed network" comprising the steps of (a) enabling ....; (c) providing interactive ... entity, as shown are merely an abstract idea and does not reduce to a practical application in the technological arts (involving computer/computing means or equivalent) and are therefore are found to be non-statutory. Applicant fails to disclose 1) how the distributed network relating to computer/computer network and 2)

involvement of the network in the steps of the claim or to carry out the steps of the claim.

See *In re Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557, or *In re Waldbaum*, 173 USPQ 430 (CCPA 1972) or *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. **Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by ARTICLE 11/1999 ("Tis the Season ... of children", November 29, 1999).**

**As for independent claim 1**, ARTICLE 11/1999 discloses a method for a business entity to raise funds and awareness for a fundraising entity over a distributed network (Internet or website [www.wingspanbank.com](http://www.wingspanbank.com)) comprising the steps of:

- (a) enable the business entity (wingspanBank.com) to identify at least one fundraising entity (Toys for Tots),
- (b) hosting one or more fundraising events associated with the fundraising entity (Toys for Tots),
- (c) providing interactive participation between at least one user and the fundraising entity (where shoppers can donate money directly). (see paper).

Art Unit: 3629

**As for dep. claims 2-3**, this is inherently included in the communication network (Internet/website) of ARTICLE 11/1999 above wherein email or other electronic messages are normally provided to allow communications between the business entity, consumer and fundraising entity.

**As for dep. claim 4**, this is inherently in the teaching of ARTICLE 11/1999 wherein the consumer can purchase a range of popular toys at 50% discount of the regular price and the customer will receive additional 5% cash back when they pay with the credit card of wingspanbank.com.

**As for dep. claim 5**, this is taught in ARTICLE 11/1999 wherein the shoppers can donate money directly to the [www.toysfortots.org](http://www.toysfortots.org).

***Claim Rejections - 35 USC § 103***

**5. Claims 2-4 are rejected (2<sup>nd</sup> time) under 35 U.S.C. 103(a) as being unpatentable over ARTICLE 11/1999.**

**As for dep. claims 2-4** which deals with communication over the network such as email or other electronic messages, it would have been obvious for an artisan to provide those communications over the web or web sites of [www.wingspanbank.com](http://www.wingspanbank.com) to allow effective communications between the business entity, consumer and fundraising entity which inherently motivates the user to buy and make donations when their questions and reservations are being met.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 2001/0054003 is cited to teach all sources of communications between parties during a fundraising event and could have been used in the rejections above. (see 0041).

Art Unit: 3629

7. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiner. As the official records and applications are located in the clerical section of the examining Tech Center, the clerical personnel can readily provide status information without contacting the examiner. See MPEP 203.08. The Tech Center clerical receptionist number is (703) 308-1113.

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov.


Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053. My work schedule is normally Monday through Friday from 7:00 am through 4:30 pm.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 305-7687. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

Other possibly helpful telephone numbers are:

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/ 8335
Fee Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help Line	1-800-786-9199

dtn  
July 12, 2004

  
**DEAN T. NGUYEN**  
**PRIMARY EXAMINER**